
Item 8

Action

Lobbying Recommendations

Executive Summary: This item presents options for the outstanding items in the Municipal Lobbying Ordinance review.

Recommended Action: Approve an approach for the disclosure of direct communications and the exemption of 501(c)(3) organizations.

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Lobbying Recommendations

A. Introduction

At the October 2017 meeting, following a comprehensive review spanning nearly two years, most of the recommendations for updating the Municipal Lobbying Ordinance (MLO) were approved. The approved language is provided in Attachment B.

Two specific recommendations remain to be decided: the disclosure of direct communications; and the exemption for 501(c)(3) organizations. For both issues, several options are provided below. The first option is the original staff recommendation, and the other options identify alternate approaches.

The options provided below do not represent an exhaustive list of possible approaches, and they may certainly be modified if desired. The goal of this report is to assist you with deliberations, and we are happy to help you craft the approaches you would like to take.

B. Disclosure of Direct Communications

The staff recommendation is that lobbying entities disclose direct communications with City employees by specifying the date of the communication and the employee's title, division, and agency. There was general agreement at the October meeting that the agency and division should be disclosed. However, a decision was not made regarding whether every direct communication with a City employee should be disclosed or whether only direct communications with certain employees should be disclosed.

The table that begins on the next page identifies three options for the disclosure of direct communications. Option 1 is the original staff recommendation, and Options 2 and 3 suggest alternatives that were discussed at the October meeting. Following the three options are additional information and some questions to consider when deciding which approach to take.

Ordinance language for Option 1 can be found in Attachment B. See proposed Los Angeles Municipal Code (LAMC) §§ 48.08(C)(2)(iv), (C)(3)(v), (C)(4)(iv). The proposed language is a starting point for discussions and can be modified to reflect an alternate approach.

Disclosure of Direct Communications

Option 1 (original recommendation)	Lobbying entities must disclose each direct communication by identifying the date, the agency, and the division and title of each City <u>employee</u> lobbied.
Option 2	Lobbying entities must disclose each direct communication by identifying the date, the agency, and the division and title of each <u>high level City official</u> lobbied.
Option 3	Lobbying entities must disclose each direct communication by identifying the date, the agency, and the title of each <u>elected official, department head, or board or commission member</u> lobbied.

Additional Information:

- Currently, lobbying entities are required to disclose only the City agencies they attempt to influence.
- Some City agencies have thousands of employees, making the current reporting requirement arguably insufficient for meaningful disclosure.
- A “direct communication” occurs when a lobbying entity directly or indirectly engages with a City employee for the purpose of attempting to promote, support, oppose, modify, or delay action on a City matter. There are 15 exceptions to the definition, including communicating on the record at a public meeting, requesting an interpretation of law or policy, providing legal representation in a litigation or enforcement setting, communicating solely to schedule a meeting, and communicating solely regarding a ministerial action.
- The other California cities with ethics commissions require more detailed disclosure:

	Date	Dept	Name	Title	Method
Oakland		X	X	X	
San Diego		X	X		
San Francisco	X	X	X		
San Jose	X		X		X

- Oakland requires disclosure of the title and department of every city employee. The names of high level officials must also be disclosed.
- San Diego, San Francisco, and San Jose limit disclosure to their high level officials.
- The other California cities that require more detailed disclosure have not reported a chilling effect from the requirement. In fact, since San Francisco added the requirement in 2010, there has been a 310-percent increase in registered lobbyists through 2017.
- “High level officials” could be defined to include elected officials, board and commission members, department heads, department division managers, and the other positions identified in Los Angeles Municipal Code § 49.5.13(c)(1), such as deputy mayors, assistant city attorneys, and certain council aides.
- Additional disclosure will require lobbying entities to document information that they currently do not have to document.
- A sample disclosure form for each option is provided in Attachment A.

Disclosure of Direct Communications cont'd

Things to Consider:

- Should more disclosure be required, or is the current requirement sufficient?
- Which option most reasonably achieves the goal of providing more context for the public about lobbying in the City?
- Should the public have information about lobbying that occurs with employees who have decision-making authority but are not high on an organization chart?
- Do the options create too great a burden for lobbying entities?

C. 501(c)(3) Exemption

The staff recommendation expands the current exemption for 501(c)(3) organizations by not requiring that a 501(c)(3) organization receive government funding for the purpose of representing indigent clients and not requiring that services to indigent clients be provided free of charge. Much discussion occurred at the August and October meetings regarding this exemption, but a consensus was not reached.

In the table below, we provide four options. Option 1 is the original staff recommendation, Option 2 is an alternative that may create a more objective standard than Option 1, Option 3 is an approach suggested by the nonprofit community, and Option 4 is an approach that is used in San Francisco. As in the table above, additional information and some questions to consider are also provided.

Ordinance language for Option 1 can be found in Attachment B, as a starting point for discussions. See proposed LAMC § 48.03(E).

501(c)(3) Exemption

Option 1 (original recommendation)	Exempt 501(c)(3)s that receive <u>government funding</u> and are created primarily to provide <u>basic life assistance</u> to <u>disadvantaged</u> clients at rates that are <u>significantly below market</u> .
Option 2	Exempt 501(c)(3)s that receive <u>government funding</u> and are created primarily to provide <u>basic life assistance</u> to clients in families that do not exceed the <u>very low income limits</u> established for Los Angeles County by the United States Department of Housing and Urban Development.
Option 3	Exempt 501(c)(3)s that had gross receipts of <u>less than \$2.5 million</u> in the previous tax year and reasonably anticipate the same in the current tax year.
Option 4	Exempt 501(c)(3)s that filed <u>IRS Form 990-N or 990-EZ</u> for the previous tax year and reasonably anticipate the same for the current tax year.

501(c)(3) Exemption cont'd

Additional Information (general):

- Currently, a 501(c)(3) organization is exempt from regulation if it receives government funding for the purpose of representing indigent persons, was created primarily to provide direct services to those persons, and provides those services free of charge.
- Option 1 expands the existing exemption.
- Two of the approved recommendations also limit qualification as a lobbying entity:
 - √ The definition of “direct communication” contains 15 exceptions, including communicating on the record at a public meeting, requesting an interpretation of law or policy, providing legal representation in a litigation or enforcement setting, communicating solely to schedule a meeting, and communicating solely regarding a ministerial action. So, for example, a 501(c)(3) organization could communicate on the record at public meetings 40 hours every week and never trigger registration. Currently, registration would be triggered by just one week of that activity.
 - √ The definition of “lobbyist” is an individual who becomes entitled to receive \$5,000 for lobbying activities. So, for example, an employee of a 501(c)(3) organization who earns \$40/hour can engage in 125 hours of compensated lobbying activities before having to register. Registration is currently triggered by 30 compensated hours that encompass a broader scope of lobbying activities.
- “Basic life assistance” means assistance with food, clothing, shelter, child care, health, legal needs, and vocational needs.
- The lobbying ordinance is a disclosure law based on the level—not the content or purpose—of lobbying.
- Exempting 501(c)(3) organizations more broadly could be viewed as the City unfairly favoring one viewpoint over another.
- A broader exemption could encourage for-profit enterprises to create nonprofit organizations to avoid regulation.
- Nine of the 10 largest cities in the United States regulate the lobbying activities of 501(c)(3)s. Three cities (New York, Phoenix, and San Diego) do not provide even limited exemptions.

Additional Information (Option 2):

- The 2017 median income for Los Angeles County is \$64,300. The “Very Low Income Limit” is 50 percent of the median income (e.g., \$31,550 for a single person).
- Referring to an income limit established by the federal government is more precise and objective than using terms such as “disadvantaged” and “significantly below market”.

501(c)(3) Exemption cont'd

Additional Information (Options 3 and 4):

- A 501(c)(3) organization must have gross receipts of less than \$200,000 to file an IRS Form 990-EZ and less than \$50,000 to file an IRS Form 990-N.
- San Francisco exempts from lobbying regulation any 501(c)(3) organization that files IRS Forms 990-EZ and 990-N.
- According to the National Center for Charitable Statistics, there were about 35,000 registered public and private 501(c)(3) organizations in Los Angeles County in 2015. Of the 23,000 organizations that filed tax returns, approximately 41 percent of them filed Form 990-N.
- According to a 2014 report by the California Association of Nonprofits, the median revenue of a public 501(c)(3) organization in California depends on the organization's type:

Arts, Culture, and Humanities.....	\$88,000
Education, Higher.....	\$3,167,000
Education, Other	\$85,000
Environment.....	\$112,000
Hospitals	\$82,883,000
Health, Other.....	\$208,000
Human Services.....	\$150,000
International	\$120,000
Mutual, Public, and Societal Benefit	\$90,000
- A 501(c)(3) organization that has gross receipts of \$2.5 million is a very large nonprofit.
- The IRS permits nonprofits to spend up to 20 percent of their funds on lobbying efforts. For a nonprofit with gross receipts of \$2.5 million, 20 percent is \$500,000—or 100 times the \$5,000 threshold in the definition of “lobbyist”.
- Tax returns for 501(c)(3) organizations are publicly available and can be used to determine whether the exemption applies.

Things to Consider:

- Should this exemption be modified, or is the current exemption sufficient?
- Should 501(c)(3) organizations be regulated at all?
- Which option most reasonably achieves the goal of helping the public understand significant lobbying efforts in the City while recognizing that certain 501(c)(3) organizations provide important services to the most vulnerable in society?
- Do the options create too great a burden for 501(c)(3) organizations?
- Should 501(c)(3) organizations be regulated differently because of their federal tax status?
- Is a 501(c)(3) organization's gross receipts a good measure of its lobbying activity?

D. Conclusion

Two issues—the disclosure of direct communications and the exemption of 501(c)(3) organizations—remain outstanding in the lobbying review. We recommend that decisions be made for both issues by selecting or modifying one of the options suggested above.


The decisions regarding these remaining issues will be included with the lobbying recommendations that were approved at the October meeting. All of the approved recommendations will then be transmitted to the City Council for their consideration.

Attachments:


- A Disclosure of Direct Communications*
- B Ordinance language approved 10/17/17*
- C Written public comments received since the 10/17/17 meeting*

Municipal Lobbying Ordinance
Disclosure of Direct Communications
December 2017


Current

	Ethics Commission 200 N Spring Street City Hall - 24th Floor Los Angeles, CA 90012 (213) 978-1960 ethics.lacity.org	<i>Lobbyist Quarterly Report</i> Lyle Lobbyist For the calendar quarter ending Sep 30, 2017
Client Name and Contact Info		Total Payments
Hotels R Us, LLC 123 S. Main Street, 5th Floor Los Angeles, CA 90012 (213) 123-4567		\$60,000.00
Municipal Legislation/ Projects		
Description	Reference Numbers	City Agencies Lobbied
Project-related Amount		
123 W. Village Road/Los Angeles <i>Construction of new 30-guestroom hotel.</i>	CF-17-0000-S1	Planning
		\$60,000.00


Option 1

	Ethics Commission 200 N Spring Street City Hall - 24th Floor Los Angeles, CA 90012 (213) 978-1960 ethics.lacity.org	<i>Lobbyist Quarterly Report</i> Lyle Lobbyist For the calendar quarter ending Sep 30, 2017	
<i>(Sample)</i>			
Client Name and Contact Info			Total Payments
Hotels R Us, LLC 123 S. Main Street, 5th Floor Los Angeles, CA 90012 (213) 123-4567			\$60,000.00
Municipal Legislation/ Projects			
Description	Reference Numbers	Project-related Amount	
123 W. Village Road/Los Angeles <i>Construction of new 30-guestroom hotel.</i>	CF-17-0000-S1	\$60,000.00	
Agency Contacted	Contact Date	Contacted Employee's Title	Contacted Employee's Division
Planning	8/23/17	Architect	Historic Resources
Planning	8/29/17	Principal City Planner	Project Planning
Planning	8/30/17	General Manager	Executive Management

Option 2

 Ethics Commission 200 N Spring Street City Hall - 24th Floor Los Angeles, CA 90012 (213) 978-1960 ethics.lacity.org		Lobbyist Quarterly Report Lyle Lobbyist For the calendar quarter ending Sep 30, 2017	
(Sample)			
Client Name and Contact Info			Total Payments
Hotels R Us, LLC 123 S. Main Street, 5th ^h Floor Los Angeles, CA 90012 (213) 123-4567			\$60,000.00
Municipal Legislation/ Projects			
Description	Reference Numbers	Project-related Amount	
123 W. Village Road/Los Angeles <i>Construction of new 30-guestroom hotel.</i>	CF-17-0000-S1	\$60,000.00	
Agency Contacted	Contact Date	Contacted Official's Title	Contacted Official's Division
Planning	8/23/17	n/a	n/a
Planning	8/29/17	Principal City Planner	Project Planning
Planning	8/30/17	General Manager	Executive Management

Option 3

 Ethics Commission 200 N Spring Street City Hall - 24th Floor Los Angeles, CA 90012 (213) 978-1960 ethics.lacity.org		Lobbyist Quarterly Report Lyle Lobbyist For the calendar quarter ending Sep 30, 2017	
(Sample)			
Client Name and Contact Info			Total Payments
Hotels R Us, LLC 123 S. Main Street, 5th Floor Los Angeles, CA 90012 (213) 123-4567			\$60,000.00
Municipal Legislation/ Projects			
Description	Reference Number(s)	Project-related Amount	
123 W. Village Road/Los Angeles <i>Construction of new 30-guestroom hotel.</i>	CF-17-0000-S1	\$60,000.00	
Agency Contacted	Contact Date	Contacted Official's Title	Contacted Official's Division
Planning	8/23/17	n/a	n/a
Planning	8/29/17	n/a	n/a
Planning	8/30/17	General Manager	Executive Management

Municipal Lobbying Ordinance

Los Angeles Municipal Code Chapter IV, Article 8

Outstanding Issues

SEC. 48.01. Title and Findings

A. **Title.** This Article shall be known and may be cited as the Los Angeles Municipal Lobbying Ordinance.

B. **Findings.** The following findings are adopted in conjunction with the enactment of this Article:

1. City government functions to serve the needs of all citizens.
2. The citizens of the City have a right to know the identity of interests that attempt to influence decisions of City government, as well as the means employed by those interests.
3. All persons engaged in compensated activities aimed at influencing decisions by City government must, when so engaged, be subject to the same regulations, restrictions, and requirements, regardless of their background, training, title, or other professional qualifications or license.
4. Complete public disclosure of the full range of activities by and financing of lobbyists and those who employ their services is essential to maintaining public confidence in the integrity of City government.
5. It is in the public interest to ensure that lobbyists do not misrepresent

facts, their positions, or attempt to deceive officials through false communications, do not place City officials under personal obligation to themselves or their clients, and do not represent that they can control the actions of City officials.

6. It is in the public interest to ensure adequate and effective disclosure of information about efforts to lobby City government.

SEC. 48.02. Definitions

The following terms have the meanings identified below. Other terms used in this Article have the meanings identified in the Political Reform Act.

- A. **“Agency”** means the City of Los Angeles; any department, bureau, office, board, commission, or entity required to adopt a conflict of interests code subject to City Council approval; or a neighborhood council certified under Article IX of the City Charter.
- B. **“At the behest”** means under the control of; at the direction, request, or suggestion of; in cooperation, consultation, or coordination with; or with the express prior consent of an elected City officer or candidate for elected City office. The term does not apply to a donation solicited solely through mass media, a suggestion made to the entire audience at a public gathering, or written materials in which the name of the elected City

officer or candidate is listed with other names.

C. **“Attempt to influence”** means directly or indirectly promoting, supporting, opposing, or seeking to modify or delay action on a City matter by any means. The term includes but is not limited to any of the following:

1. Engaging in a direct communication.
2. Drafting ordinances, resolutions, regulations, or other policy documents.
3. Providing advice or recommending strategy.
4. Researching, investigating, and gathering information.
5. Engaging in conduct designed to influence the position of a third party.
6. Other similar conduct.

D. **“City matter”** means a matter that is proposed to or pending with an agency and in which a non-ministerial action may be taken.

E. **“City employee”** means any of the following individuals who participate in a City matter in other than a purely ministerial capacity: an elected City officer; an agency officer, member, commissioner, or employee; or an agency consultant who qualifies as a public official under the Political Reform Act.

F. **“Client”** means both the person on whose behalf a lobbyist or lobbying

firm engages in one or more attempts to influence that entitle the lobbyist or the lobbyist’s employer to receive at least \$250 in compensation and the person who pays the compensation. The term does not include an individual member of an organization that is represented by a lobbyist or lobbying firm, unless the member provides compensation for personal representation in addition to usual membership fees.

G. **“Compensation”** means money or any other tangible or intangible thing of value that is provided, owed, or received in exchange for services rendered or to be rendered. The term includes bonuses and contingent fees, regardless of whether payment is ultimately received. It does not include reimbursement for reasonable lobbying expenses. There is a rebuttable presumption that compensation for lobbying services includes all payments given or owed by or on behalf of a client.

H. **“Controlled committee”** means a committee controlled by an elected City officer or a candidate for elected City office.

I. **“Direct communication”** means directly or indirectly talking to, corresponding with, or answering questions or inquiries from a City employee, either personally or through an agent, for the purpose of attempting to influence. The term does not include the following:

1. Communicating on the record at a publicly noticed meeting that is open to the general public. If a lobbying entity is entitled to

receive compensation for the communication, the lobbying entity must disclose on the record the source of the compensation and on whose behalf the communication is made.

2. Submitting a document or other recording that relates to an item on a publicly noticed meeting agenda and is made part of the record at the public meeting. If a lobbying entity submitting the recording is entitled to receive compensation for doing so, the document or recording must identify the source of the compensation and on whose behalf it is submitted.
3. Submitting a bid or responding to a request for proposals or other contract solicitation, or participating in an interview related to the contract solicitation, as long as the information is provided only to the City employee or agency specifically designated in the contract solicitation to receive the information.
4. Negotiating the terms of a contract with a City employee who has the authority to participate in a decision regarding the contract after being selected by that employee's agency to enter into the contract.
5. Communicating regarding the administration of or performance under an existing City contract with a City employee who administers the contract or provides legal advice regarding the contract. This exemption does not apply to an in scope change order.
6. Requesting an interpretation of a law, regulation, or policy.
7. Responding to an agency enforcement proceeding as the subject of or a witness in that proceeding.
8. Communicating as an official representative of a recognized City employee organization with a City employee other than the Mayor, a City Council member, or a member of their staffs, with regard to one of the following:
 - a. The establishment, amendment, administration, or interpretation of a collective bargaining agreement or memorandum of understanding between an agency and the recognized City employee organization.
 - b. A management decision regarding the working conditions of represented employees that relates to a collective bargaining agreement or memorandum of understanding between an agency and the recognized City employee organization.
 - c. A proceeding before the Civil Service Commission or the Employee Relations Board.
9. Providing legal representation as a licensed attorney for a party in litigation or an enforcement proceeding with an agency.

10. Communicating solely to provide technical data or specialized knowledge within a particular profession or discipline.
 11. Communicating solely to schedule a meeting.
 12. Communicating solely regarding a ministerial action.
 13. Communicating under circumstances similar to those identified above, after receiving advice from the Ethics Commission that the communication is exempt.
- J. **“Donation”** means a payment to a charitable organization for which full and adequate consideration is not received.
- K. **“Elected City office”** has the same meaning as in Section 49.7.2(G).
- L. **“Elected City officer”** has the same meaning as in Section 49.7.2(H).
- M. **“Fundraising activity”** means any of the following:
1. Asking another person, either personally or through an agent, to make a contribution to an elected City officer, a candidate for elected City office, or a controlled committee. This does not include making a request for funds through mass media or through a suggestion made to the entire audience at a public gathering.
 2. Allowing one’s name or likeness to be used on a written request for funds for an elected City officer, a candidate for elected City office, or a controlled committee.
 3. Making or incurring expenses for or distributing a fundraising solicitation to 25 or more persons.
 4. Providing the use of a home or business to hold a fundraising event without charging fair market value for the use of that location.
 5. Paying for at least a majority of the costs of a fundraising event.
 6. Hiring a person to conduct a fundraising event.
 7. Asking 25 or more persons to attend a fundraising event.
 8. Providing 25 or more names to be used for invitations to a fundraising event.
- N. **“Fundraising event”** means an event designed primarily for political fundraising at which contributions are solicited, delivered, or made for an elected City officer, a candidate for elected City office, or a controlled committee.
- O. **“Fundraising solicitation”** means a written request that a person make a contribution to an elected City officer, a candidate for elected City office, a controlled committee, or a City ballot measure committee.
- P. **“Indirect Lobbyist”** means a person, other than a lobbyist, lobbying firm, or lobbying organization, who makes or incurs expenses totaling \$5,000 or more in a calendar year for the purpose of attempting to influence

one or more City matters. Payments and expenses include those made for public relations, media relations, advertising, public outreach, research, investigation, reports, analyses, studies, and similar activities if they are not required to be reported by a lobbyist or lobbying firm. Compensation paid to a registered lobbyist or lobbying firm for attempting to influence does not count toward the threshold.

Q. **“Lobbying entity”** means a lobbyist, indirect lobbyist, lobbying firm, or lobbying organization.

R. **“Lobbying firm”** means an entity, other than a lobbying organization or indirect lobbyist, that receives or becomes entitled to receive compensation for one or more attempts to influence and that has a partner, owner, shareholder, officer, or employee who qualifies as a lobbyist.

S. **“Lobbying organization”** means an entity, other than a lobbying firm or an indirect lobbyist, that employs a lobbyist in-house to attempt to influence on the entity’s own behalf.

T. **“Lobbyist”** means an individual who engages in at least one direct communication and receives or becomes entitled to receive \$5,000 or more in compensation in a calendar year for one or more attempts to influence on behalf of one or more other persons.

U. **“Political Reform Act”** means the California Political Reform Act of 1974 (California Government Code Sections 81000 *et seq.*) and the

related regulations of the California Fair Political Practices Commission as amended from time to time.

SEC. 48.03. Exemptions

The following persons are exempt from this Article:

A. A public official or government employee acting in an official capacity and within the scope of employment.

B. A media outlet that broadcasts news, editorials, or paid advertising that directly or indirectly attempts to influence and the media outlet’s employees engaged in the same activity. This exemption does not apply to other action by a media outlet and its employees.

C. A consultant acting under an agency consulting agreement.

D. A person whose only activity is participating in a competitive bid process. This exemption does not apply to attempts to influence the Mayor, a City Council member, a staff member of the Mayor or a City Council member, or a board or commission member with regard to the competitive bid process.

E. An organization that is exempt from federal taxation pursuant to Section 501(c)(3) of the Internal Revenue Code, receives funding from a government agency, and was created primarily to provide direct basic life assistance to disadvantaged individuals at a rate that is significantly below market. Basic life assistance means assistance with

food, clothing, shelter, child care, health, legal needs, and vocational needs. This exemption applies to the organization's employees and board members engaged in providing direct basic life assistance. This exemption does not apply to other action by the organization and its employees and board members, including but not limited to seeking funding, property, or a permit from the City.

SEC. 48.04. Prohibitions

- A. A lobbying entity shall not do any of the following:
 - 1. Engage in an act with the intent of placing a City employee under personal obligation to the lobbying entity or the lobbying entity's client.
 - 2. Deceive or attempt to deceive a City employee with regard to a material fact that is pertinent to a City matter.
 - 3. Cause or influence the introduction of a City matter for the purpose of thereafter being employed or retained to secure its passage or defeat.
 - 4. Cause a communication to be sent to a City employee in the name of a nonexistent person or in the name of an existing person without that person's consent.
 - 5. Offer, make, or arrange for a payment to a City employee that would violate a provision of the Charter, the Campaign Finance Ordinance (Sections 49.7.1 et

seq.), or the Governmental Ethics Ordinance (Sections 49.5.1 et seq.).

- B. A client shall not offer, make, or arrange for a payment to a City official, as defined in Section 49.5.2(C), that is prohibited for the client's lobbyist or lobbying firm under Section 49.5.8.

SEC. 48.05. Recordkeeping Responsibilities

- A. A lobbying entity shall prepare and maintain detailed records that demonstrate compliance with this Article.
- B. Treasurers and fundraisers for elected City officers, candidates for elected City office, and controlled committees shall prepare and maintain detailed records of contributions received as a result of fundraising activity engaged in by a lobbying entity.
- C. A lobbying entity and its vendors and clients shall comply with a lawful request to provide any record that details activity governed by this Article when the request is made by the Ethics Commission or another public officer with the authority to enforce this Article. A lobbying entity shall notify its vendors and clients of their responsibilities under this section.
- D. Records shall be maintained for at least four years. If a record relates to activity that must be disclosed through a public filing, the record shall be maintained for at least four years after the filing deadline.

SEC. 48.06. Filing Methods

- A. Every registration, report, and other filing required by this Article must be submitted under penalty of perjury by the person who is required to file and must be filed in a format prescribed by the Ethics Commission. The Ethics Commission must provide public access to all filings.
- B. A lobbying entity and a person who qualifies as a lobbying entity must file registrations, quarterly reports, terminations, and amendments to those filings electronically.
- C. If an electronic filing is required, the Ethics Commission must provide a unique identifier to the person who is required to file, to be used in place of a physical signature for submitting and verifying data under penalty of perjury. An electronic filing is presumed to be filed under penalty of perjury by the person required to file.
- D. If a paper filing is required, it must contain the physical signature of the person who is required to file. A document is considered filed on the earlier of the date of receipt by the Ethics Commission or the date of the postmark if it is mailed and bears the correct address and postage.

SEC. 48.07. Registration

A lobbying entity shall register with the Ethics Commission within 10 business days after qualifying as a lobbying entity. A lobbying entity shall file an amendment to its registration statement within 10 business days after the information in the registration statement changes.

A. **Duration.** A person who registers as a lobbying entity shall retain that status through the earlier of December 31 of that calendar year or the date of filing a termination statement. A lobbying entity shall file a termination statement within 20 business days after ceasing all activity governed by this Article.

B. **Registration Fees.** An annual registration fee of \$450 shall be paid for each lobbying entity. An individual who qualifies as both a lobbyist and a lobbying firm shall pay a registration fee only as a lobbying firm. An annual registration fee of \$75 shall be paid for each client of a lobbying firm.

C. Contents.

1. Every registration statement shall contain the following information:
 - a. The lobbying entity's name, address, email, and telephone number.
 - b. The name, title, address, email, and telephone number of the individual responsible for filing the registration statement.
 - c. The date of qualification as a lobbying entity.
 - d. Each agency that the lobbying entity has attempted and will attempt to influence.
 - e. Each City matter that the lobbying entity has attempted and will attempt to influence, including City reference numbers.

- f. The position that was taken or will be taken on each matter.
 - g. A statement that the lobbying entity has reviewed and understands the requirements of this Article, including the education requirement in Section 48.10, and will notify all clients and vendors of their responsibilities under Section 48.05(B).
 - h. Any other information required by regulation of the Ethics Commission, consistent with this Article.
2. In addition to the information in paragraph 1, a registration statement for a lobbyist must also contain the following:
 - a. The name, address, email, and telephone number of the lobbyist's employer.
 - b. A statement regarding whether the lobbyist is a sole proprietor.
 - c. A statement regarding whether the lobbyist is a former City employee and, if so, the lobbyist's last date of service to the City.
 3. In addition to the information in paragraph 1, a registration statement for a lobbying firm must also contain the following:
 - a. The name of each lobbyist who is a partner, owner, shareholder, officer, or employee.
 - b. For each client:
 - i. The client's name, address, email, and telephone number.
 - ii. The name of each lobbyist who has attempted or will attempt to influence.
 - iii. The City matters regarding which each lobbyist will attempt to influence, including City reference numbers.
 4. In addition to the information in paragraph 1, a registration statement for a lobbying organization must also contain the name of each lobbyist who is a partner, owner, shareholder, officer, or employee.
 5. In addition to the information in paragraph 1, a registration statement for an indirect lobbyist must also contain the following:
 - a. Each City matter the indirect lobbyist has attempted and will attempt to influence, including City reference numbers.
 - b. The indirect lobbyist's position on each City matter.
 - c. The nature of the indirect lobbyist's business.
 - d. For an individual, a statement regarding whether the indirect lobbyist is a former City employee and, if so, the indirect lobbyist's last date of service to the City.

SEC. 48.08. Disclosure

A. Reporting Requirement. A lobbying entity shall file a disclosure report for every two-month reporting period during which the lobbying entity was registered, was required to register, or had reportable activity. An individual who qualifies as both a lobbyist and a lobbying firm shall file only lobbying firm reports.

B. Deadline. Disclosure reports shall be filed by the following deadlines and shall disclose activity for the two calendar months immediately preceding the deadline:

1. By March 20, for activity from January 1 through the last day of February.
2. By May 20, for activity from March 1 through April 30.
3. By July 20, for activity from May 1 through June 30.
4. By September 20, for activity from July 1 through August 30.
5. By November 20, for activity from September 1 through October 31.
6. By January 20, for activity from November 1 through December 31.

C. Contents.

1. Every disclosure report shall contain the following information:
 - a. The lobbying entity's name, address, email, and telephone number.

- b. The name, title, address, email, and telephone number of the individual responsible for filing the disclosure report.

- c. The total amount of all gifts and other financial benefits that the lobbying entity and the lobbying entity's clients gave to City employees and members of City employees' immediate families. For purposes of this Subparagraph and Subparagraph d, a gift includes but is not limited to a contribution to an individual's campaign for election to a neighborhood council, a pension board, or another City position other than an elected City office.

- d. For each gift or other financial benefit valued at \$25 or more that the lobbying entity or one of the lobbying entity's clients gave to a City employee or a member of a City employee's immediate family:

- i. The date given.
- ii. The amount or fair market value.
- iii. A description.
- iv. The name and title of the City employee.
- v. The name and address of each payee.
- vi. The name of the client, if any, for whom the gift or financial benefit was given.

- A gift or benefit is given for a client if the client requested or authorized it or if it was given in connection with an event at which the lobbying entity attempted to influence the City employee on behalf of the client.
- e. For each contribution of \$100 or more to an elected City officer, a candidate for elected City office, or a controlled committee that the lobbying entity made, delivered, or acted as an intermediary for:
 - i. The name of the elected City officer, the candidate for elected City office, or the controlled committee.
 - ii. The date of the contribution.
 - iii. The amount of the contribution.
 - f. If the lobbying entity made or incurred expenses for or distributed 25 or more substantially similar copies of a fundraising solicitation, the information required by Section 48.09(B).
 - g. For each elected City officer, candidate for elected City office, or controlled committee for which the lobbying entity engaged in fundraising activity:
 - i. The name of the elected City officer, the candidate for elected City office, or the controlled committee.
 - ii. The dates of the fundraising activity.
 - iii. The number of persons from whom contributions were solicited.
 - iv. The amount of funds raised as a result of the fundraising activity.
 - v. A statement regarding whether another person was involved in the same fundraising activity.
 - h. If the lobbying entity made one or more contributions aggregating \$1,000 or more at the behest of an elected City officer or candidate for elected City office to controlled committees of other elected City officers or candidates for elected City office, the following for each contribution:
 - i. The date of the behest.
 - ii. The name of the elected City officer or candidate for elected City office who made the behest.
 - iii. The date of the contribution.
 - iv. The amount of the contribution.
 - v. A description of the contribution.
 - vi. The name and address of the payee.

- i. If the lobbying entity made one or more donations aggregating \$1,000 or more at the behest of an elected City officer or candidate for elected City to religious, charitable, or other nonprofit organizations, the following for each donation:

- i. The date of the behest.
- ii. The name of the elected City officer or candidate for elected City office who made the behest.
- iii. The date of the donation.
- iv. The amount of the donation.

- v. A description of the donation.
- vi. The name and address of the payee.

- j. For each elected City officer, candidate for elected City office, or controlled committee to which the lobbying entity provided compensated services:

- i. The name of the elected City officer, candidate for elected City office, or controlled committee.
- ii. The date of the election, if applicable.
- iii. The amount of compensation earned.

- iv. The amount of compensation received.

- v. A description of the services provided.

An individual shall report this information whether the services were provided by the individual personally or by a business entity in which the individual held an ownership or investment interest of at least 10 percent and whether the compensation was or is to be provided directly to the individual or to the business entity.

- k. For each contract under which the lobbying entity provided compensated services to an agency:

- i. The agency for which the services were provided.
- ii. A description of the contract, including City reference numbers.
- iii. The amount of compensation earned.
- iv. The amount of compensation received.
- v. A description of the services provided.

An individual shall report this information whether the services were provided by the individual personally or by a business entity in which the individual held an ownership or

- investment interest of at least 10% and whether the compensation was or is to be provided directly to the individual or to the business entity.
- I. Any other information required by regulation of the Ethics Commission, consistent with this Article.
 2. In addition to the information in paragraph 1, a disclosure report for a lobbyist must also contain the following:
 - a. The name, address, email, and telephone number of the lobbyist's employer.
 - b. For each City matter the lobbyist attempted to influence:
 - i. A description of the matter, including City reference numbers.
 - ii. The position taken on the matter.
 - iii. The name, address, email, and telephone number of the client on whose behalf the attempt to influence was made.
 - iv. The agency, division, and title of each City employee with whom the lobbyist engaged in a direct communication and the date of the direct communication.
 3. In addition to the information in paragraph 1, a disclosure report for a lobbying firm must also contain the following:
 - a. The name of each lobbyist who is a partner, owner, shareholder, officer, or employee.
 - b. For each City matter the lobbying firm attempted to influence:
 - i. A description of the matter, including City reference numbers.
 - ii. The position taken on the matter.
 - iii. The name, address, email, and telephone number of the client on whose behalf the attempt to influence was made.
 - iv. The name of each partner, owner, shareholder, officer, or employee who engaged in a direct communication.
 - v. The agency, division, and title of each City employee with whom a partner, owner, shareholder, officer, or employee engaged in a direct communication and the date of the direct communication.
 - vi. Total client payments incurred for attempts to influence.

- vii. Total client payments received for attempts to influence.
 - c. Total payments incurred and received from clients.
 - d. Total payments to lobbyist personnel for attempts to influence.
 - e. Total payments to non-lobbyist personnel for attempts to influence.
 - f. Total expenses attributable to attempts to influence, other than overhead expenses, including the amounts in Subparagraphs d and e and all other expenses that would not have been incurred but for an attempt to influence. Each expense of \$5,000 or more must be itemized with a description, the date, the amount, the name and address of each third-party payee, the related City matter, including City reference numbers, and the client on whose behalf the expense was incurred.
4. In addition to the information in paragraph 1, a disclosure report for a lobbying organization must also contain the following:
- a. The name of each lobbyist who is a partner, owner, shareholder, officer, or employee.
 - b. For each City matter the lobbying organization attempted to influence:
 - i. A description of the matter, including City reference numbers.
 - ii. The position taken on the matter.
 - iii. The name of each partner, owner, shareholder, officer, or employee who engaged in a direct communication.
 - iv. The agency, division, and title of each City employee with whom a partner, owner, shareholder, officer, or employee engaged in a direct communication and the date of the direct communication.
 - c. Total payments to lobbyist personnel for attempts to influence.
 - d. Total payments to non-lobbyist personnel for attempts to influence.
 - e. Total expenses attributable to attempts to influence, other than overhead expenses, including the amounts in Subparagraphs c and d and all other expenses that would not have been incurred but for an attempt to influence. Each such expense of \$5,000 or more must be itemized with a description, the date, the amount, the name and address of each third-party payee, the related City matter, including City reference numbers, and the client on whose behalf the expense was incurred.

5. In addition to the information in paragraph 1, a disclosure report for an indirect lobbyist must also contain the following:

a. The name of each lobbyist who is a partner, owner, shareholder, officer, or employee.

b. For each City matter the indirect lobbyist attempted to influence:

i. A description of the matter, including City reference numbers.

ii. The position taken on the matter.

iii. The name of each partner, owner, shareholder, officer, or employee who engaged in a direct communication.

iv. The agency, division, and title of each City employee with whom a partner, owner, shareholder, officer, or employee engaged in a direct communication and the date of the direct communication.

v. The name, address, email, and telephone number of each person who has, or in the previous 12 months had, a financial interest in the matter and contributed at least \$1,000 to the indirect lobbyist or paid for at least 20 percent of the indirect lobbyist's expenses

attributable to attempts to influence.

c. Total payments to personnel for attempts to influence.

d. Total expenses attributable to attempts to influence, other than overhead expenses, including the amount in Subparagraph d and all other expenses that would not have been incurred but for an attempt to influence. Each such expense of \$5,000 or more must be itemized with a description, the date, the amount, the name and address of each third-party payee, and the related City matter, including City reference numbers.

SEC. 48.09. Copies of Solicitations

A lobbying entity shall notify the Ethics Commission when it makes or incurs expenses for or distributes substantially similar copies of a fundraising solicitation to 25 or more persons.

A. The notice shall be filed within one business day after the earlier of the date the fundraising solicitation is first distributed or the date an expense is made or incurred.

B. The notice shall include the following:

1. A copy of the fundraising solicitation.

2. A description of the fundraising solicitation.

3. The dates on which the fundraising solicitation was distributed.
4. The number of copies distributed and, if not distributed by the lobbying entity, the names of the persons making the distributions.
5. The dates and amounts of the expenses that were made or incurred and, if not made or incurred by the lobbying entity, the names of the persons making or incurring the expenses.
6. The name and address of each payee and any vendor or subvendor that provided service for the fundraising solicitation.
7. The names of each elected City officer, candidate for elected City office, and controlled committee for which the fundraising solicitation was made.

SEC. 48.10. Education

An individual who is required to register as a lobbyist shall complete a training provided by the Ethics Commission at least once every two calendar years. An individual who is required to register as a lobbyist for the first time shall complete the training within 60 calendar days after qualifying as a lobbyist. Thereafter, the individual shall complete the training every other year, within 60 calendar days after registering as a lobbyist.

SEC. 48.11. Enforcement

A. Criminal Penalties.

1. A person who knowingly or willfully violates a provision of this Article is guilty of a misdemeanor. A person who knowingly or willfully causes another person to violate a provision of this Article or who knowingly or willfully aides and abets another person in violating a provision of this Article is guilty of a misdemeanor.
2. Prosecution for violation of a provision of this Article must be commenced within one year after the date on which the violation occurred.
3. A person convicted of a violation of this Article may not act as a lobbying entity or otherwise attempt to influence for one year after such conviction.

B. Civil Enforcement.

1. A person who intentionally or negligently violates a provision of this Article is liable in a civil action brought by the City Attorney or the Ethics Commission. The amount of liability for a violation may not exceed the greater of \$5,000 or three times the amount the person improperly reported, contributed, expended, gave, or received. If the court determines that a violation was intentional, the court may order that the person be prohibited from acting as a lobbying entity or otherwise attempting to influence for one year.

2. If two or more persons are responsible for a violation, they are jointly and severally liable.
3. In determining the amount of liability pursuant to this subsection, the court may take into account the seriousness of the violation and the degree of culpability of the defendant.
4. An action alleging a violation of this Article may not be filed more than four years after the date the violation occurred.

C. **Injunction.** The City Attorney may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this Article.

D. Administrative Penalties.

1. The Ethics Commission may impose penalties and issue orders for violations of this Article pursuant to its authority under Charter Section 706(c).
2. A person found to have violated Charter Section 470(k) shall not act as a lobbying entity or otherwise attempt to influence City matters for four years. The Ethics Commission may reduce that period of time to not less than one year if it finds either of the following:
 - a. The person admitted or otherwise accepted responsibility for the violation.
 - b. The person took prompt remedial or corrective action.

SEC. 48.12. Late Filing Penalties

In addition to any other penalty, a person who files an original report or statement after a deadline imposed by this Article is liable to the Ethics Commission in the amount of \$25 per day after the deadline until the statement or report is filed, up to a maximum of \$500. Liability need not be enforced by the Ethics Commission if its Executive Director determines that the late filing was not willful and that enforcement of the penalty would not further the purposes of this Article. Liability may not be waived if a statement or report is not filed within 10 days after the Ethics Commission sends written notice that the statement or report is past due.

SEC. 48.13. Bidder Certification

- A. A bidder for a contract, as defined in Los Angeles Administrative Code Section 10.40.1, shall submit with its bid a certification, in a format prescribed by the Ethics Commission, that the bidder acknowledges and agrees to comply with this Article if the bidder qualifies as a lobbying entity. The exemptions contained in Section 48.03 and Los Angeles Administrative Code Section 10.40.4 do not apply to this section.
- B. Every agency shall include in each request for bids, request for proposals, request for qualifications, or other contract solicitation the link to the Ethics Commission's online version of this Article.
- C. This section does not apply to the renewal, extension, or amendment

of an existing contract, as long as the original contract solicitation met the requirements in Subsections A and B and the renewal, extension, or amendment does not involve a new contract solicitation.

SEC. 48.14. Severability

The provisions of this Article are severable. If any provision of this Article, or its application to any person or circumstance is held invalid by a court, the remainder of this Article and the application of the provision to other persons and circumstances is not affected by that determination, to the extent that the provision or its application can be given effect.

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Craig Lawson & Co., LLC

Land Use Consultants

October 30, 2017

Ms. Jessica Levinson, President
Los Angeles City Ethics Commission
200 N. Spring Street
City Hall, 24th Floor
Los Angeles, CA 90012

RE: Proposed Amendments to Municipal Lobbying Ordinance – Contacts with City Staff

Dear Ms. Levinson and Members of the Commission,

I am a Registered Lobbyist with the City of Los Angeles, and am the head of a Lobbying Firm that does land use consulting work. Our primary business is land use consulting, and while “lobbying” is one of the services we may provide to our clients, the vast majority of our work is better described as zoning research, land use analysis and application processing.

Your staff has proposed various changes to the Municipal Lobbying Ordinance, which I oppose, but I would like to focus on the issue of contacts with City Staff. The staff proposal to the City Ethics Commission (CEC) is that lobbyists be required to disclose the “title and division of each City employee contacted during the reporting period.” The reason, as stated in the Staff Report to the CEC dated October 17, 2017, is: “We believe that more specificity is necessary for a well-informed citizenry and that it will significantly enhance public awareness.”

I disagree. As land use consultants, we are required to be in regular contact with staff members at the Department of City Planning (DCP). For example, prior to filing an application we must be in contact with DCP staff in order to carry out zoning research, obtain documents from prior zoning cases, confirm the type of applications that are being filed, obtain the necessary pre-application sign offs from the Community Planner, and determine the DCP filing fee amounts. This is routine work that we undertake on a daily basis, and I do not consider this to be “lobbying”. How does disclosing the “title and division of each City employee contacted” in this situation “enhance public awareness” of the lobbying process?

I am very concerned that requiring the disclosure of the “title and division of each City employee contacted” will have a chilling effect on our ability to carry out our work assignments. For example, we might list a contact with the Deputy Director of Planning. From that title, it’s very easy for a project opponent or competitor to find out who we were talking to (there are only two or three Deputy Directors of Planning who deal with pending projects). What’s to stop these opponents from calling these staff members and harassing them for having communicated with

an applicant's representative. City staff members do not like to be confronted by angry constituents, and they don't want to be unfairly criticized for somehow assisting a developer in moving a project forward. The result will be that City staff members will refrain from taking our calls or responding to emails, because they don't want to be listed on a Lobbyist Report. This is a bad result, and I don't think that this is the intent of what the CEC is trying to accomplish.

Your staff has also recommended that Lobbyists be required to disclose the "position" that was taken on City matters that they attempt to influence. As stated above, much of our work involves research, analysis, and routine contacts with City staff members. We are not taking "positions" on City matters, we are just trying to determine the correct information and verify the entitlement path. In some cases, our clients decide not to file an application with the City; how can we identify a "position" when nothing has been filed?

As identified in James R. Sutton's excellent letters of August 14, 2017 and October 16, 2017 to the CEC, as land use professionals we are required to interact with City staff members, and thus we should be treated differently. You should carve out routine research, analysis and preliminary meetings as work that is not considered to be "lobbying". Adding new reporting requirements is not the answer.

Thank you for your consideration of my position on this matter.

Sincerely,

A black rectangular redaction box covering the signature of Craig Lawson.

Craig Lawson
President
Craig Lawson & Co., LLC

c.c. James R. Sutton, The Sutton Law Firm

November 1, 2017

Ms. Jessica Levinson
President
LOS ANGELES CITY ETHICS COMMISSION
200 N. Spring Street
City Hall, 24th Floor
Los Angeles, CA 90012

Honorable President Levinson,

I have received a copy of the enclosed letter dated October 30, 2017, authored by Mr. Craig Lawson, president of Craig Lawson & Co., LLC. I whole-heartedly support his position, and I would like to expand on some ethics-related issues that have frustrated Psomas as a registered lobbying firm.

The key problem with the ethics regulations is the very definition of the term “lobbying.” It is so broadly defined that even seeking information (in most cases from the City Planning Department staff) could be construed to be “lobbying.” Registered lobbyists and lobbying firms have struggled with this problem for many years and have probably erred on the side of caution and “over-reported” their lobbying efforts. I wish I had a solution for this problem, but as Mr. Lawson points out in his letter most of the work we do (application preparation and processing, zoning investigation, etc.) would not be considered “lobbying” by the majority of citizens in the City of Los Angeles. My recommendation is that the Ethics Commission convene a group of stakeholders for a future meeting to help better define “lobbying.”

A second issue has to do with “gifts.” At the moment, the regulations do not permit even a de minimis gift. By way of example, if Psomas offers a training opportunity by showing an educational video after work and offers popcorn and soda, a City official is prohibited from accepting the food. Similarly, if we invite City officials to a lunch-time seminar and offer sandwiches, the City official must decline or pay the nominal cost of the meal. I hope you can appreciate how awkward it is for us to make this courteous gesture but have the ethics regulations obligate the City official to refuse (or pay).

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Ms. Jessica Levinson
November 1, 2017
Page 2

As strange as this sounds, an official is technically not even allowed to plug his lap-top computer into a Psomas electrical outlet because he is being "gifted" electrical power. I trust that you appreciate how these restrictions can reach an absurd level. The solution to this is simple: Allow for modest gifts. For example, allow lobbyists or lobbying firms to pay for parking or a meal provided it does not exceed, say, \$25.00. Alternatively, instead of an event cap, perhaps there should be an annual cap of, say, \$50.00 or \$100.00.

Thank you for considering these matters.

Sincerely,

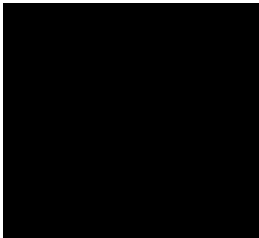
PSOMAS



Joel B. Miller
Vice President/Principal

Enclosure: Craig Lawson letter dated October 30, 2017

Cc: Craig Lawson, Craig Lawson & Co., LLC
James Sutton, The Sutton Law Firm



December 11, 2017

Jessica A. Levinson, Chair and Commissioners
Los Angeles City Ethics Commission
200 North Spring Street
City Hall, 24th Floor
Los Angeles, CA 90012

RE: Los Angeles Municipal Lobbying Ordinance

Dear Chair Levinson and Los Angeles City Ethics Commissioners,

Thank you for this opportunity to comment on the City Ethics Commission's review of the Los Angeles Municipal Lobbying Ordinance (MLO).

The Liberty Hill Foundation has been following the proposed changes to the LAMLO since August of 2016, and its potential impact on our grantees and the nonprofit sector as a whole. Liberty Hill is a public foundation that has been working for more than 40 years to advance equity and a broad range of social justice issues in the Los Angeles region through grants to nonprofit and community-based organizations; training and capacity building programs; convening and coalition-building around key public policy concerns; and working within philanthropy to promote equality and opportunity for disadvantaged people and communities.

At the October 17th meeting, 501(c)(3) nonprofits in the City expressed concerns that proposed changes to the MLO would impose burdens that have a real risk of chilling legitimate advocacy by nonprofits and reducing participation of disadvantaged City residents in critical City decision-making. For example, a community-based organization that conducts environmental education may decide not to produce a report documenting the many health exposures that a low-income community experiences if it is unsure whether the cost of the report is a lobbying expense, and could force the organization to file regular lobbying reports subject to potential civil and criminal penalties for mistakes or late filing. This robs the City of vital input and expertise which otherwise would help the City make decisions that are fair and equitable to the underserved at a time when so many traditionally disadvantaged groups are being targeted.

As a reminder, 501(c)(3)s are prohibited by federal law from doing more than an insubstantial amount of lobbying, and any lobbying they do must be tracked and publicly reported. Importantly, 501(c)(3)s are prohibited from

supporting or opposing candidates for office, so the risk of quid pro quo or pay to play corruption stemming from 501(c)(3) lobbying is much less than with non-charitable lobbying entities.

We encourage the Commission to address the following concerns that we and other nonprofits have by broadening the 501(c)(3) exemption to read as follows:

Sec. 48.03

E. Any organization exempt from federal taxation pursuant to Section 501(c)(3) of the Internal Revenue Code that:

- 1. Provides assistance, such as food, clothing, shelter, child care, health, legal, vocational, relief, educational, and other similar assistance to disadvantaged people for free or at a significantly below-market rate; OR**
- 2. Has gross receipts of less than \$2.5 million.**

This exemption also applies to the organization's employees and board members while engaged in official duties. This exemption does not apply when an organization is seeking funding, property, or a permit from the City on its own behalf.

This proposal differs from staff's proposal at the October 17th meeting in a few important ways. First, it would not require 501(c)(3)s to receive government funding—at a time when such funding is being reduced—to qualify for the exemption. Staff has offered no rationale for this requirement, and indeed was planning to remove it earlier in this review process when it inexplicably reversed course.

501(c)(3)s shouldn't have to hire attorneys to determine whether or not they are covered by the exemption. Therefore, our proposal clarifies some ambiguities in the October staff proposal and uses language more likely to be understood by nonprofits. We don't use the term "direct basic life assistance" because that is not a recognized term. Rather, we focus on assistance to disadvantaged people, since this seems to be at the heart of both the current 501(c)(3) exemption and the October staff proposal. We provide examples of types of assistance to disadvantaged people without being exhaustive, in recognition of the varied needs of disadvantaged people in Los Angeles. Our proposal includes that relief or educational assistance to disadvantaged people would be exempt, as these are important categories under Internal Revenue Code section 501(c)(3) of charitable activity. Our proposal avoids the term "client" which is not a term often used by 501(c)(3) organizations such as churches, food pantries, and child care centers to describe the people they assist, and therefore could lead to confusion. Our proposal specifies that it applies to board members while engaged in official 501(c)(3) business. The October staff proposal does not call out board members, who are important emissaries of 501(c)(3) nonprofits. Furthermore, the October staff proposal states that the exemption applies to "the organization's employees engaged in the same activity" but it is not clear what it means by "same activity." Same as what? We propose the term "official duties" instead.

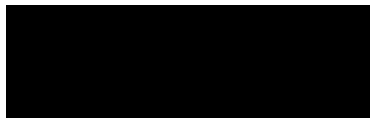
501(c)(3)s should not have to hire an attorney each time they use the exemption to determine if it will apply in each instance. Unfortunately, the October staff proposal makes this outcome likely because it contains a final sentence that ambiguously limits the scope of the exemption by saying that it does not apply to "other action" by the organization. Other than what? We propose a much clearer limitation, which although it is more restrictive than current law, would clearly delineate between covered and non-covered activity, by stating that the exemption does not apply when an organization seeks funding, property, or a permit from the City on its own behalf. Despite the fact that these activities, when undertaken by covered nonprofits such as a homeless shelter or affordable housing provider, do benefit disadvantaged people, we think it is reasonable to carve this activity out in exchange for a broader exemption as outlined here.

Finally, our proposal would exempt smaller nonprofit organizations, as measured by gross receipts, to alleviate the unique burdens smaller organizations face in tracking and reporting lobbying activities. Smaller 501(c)(3)s aren't able to spend much on lobbying, and even in the rare situations where they could otherwise qualify as City lobbyists, they especially may not have the capacity to hire an attorney to assist them with filing reports and determining when the organization's activities constitute lobbying under the MLO. This means that they are the most likely to decide not to participate based on being unsure as to whether they are covered by the exemption. An organization with a budget over \$2.5 million is much more likely to have the administrative capacity to track and report City lobbying. This size cap is a bright-line rule that adds clarity for a group of nonprofits that are unlikely to qualify as City lobbyists anyway, and therefore can give them peace of mind to participate in small ways without worrying about the liability that the MLO might otherwise impose.

We believe this proposal strikes the right balance - reducing the uncertainties that would deter participation of community-based organizations who advocate on behalf of underrepresented people while still ensuring meaningful disclosure to the public.

Thank you again for offering this opportunity to address the Commission on its review of the MLO.

Sincerely,

A solid black rectangular box used to redact the signature of Michele Prichard.

Michele Prichard
Director, Common Agenda Program
Liberty Hill Foundation



December 12, 2017

Via email: ethics.policy@lacity.org

Dear City Ethics Commissioners:

Thank you for this opportunity to comment on the City Ethics Commission's review of the Los Angeles Municipal Lobbying Ordinance (MLO). Asian Americans Advancing Justice-LA is the leading organization in Southern California dedicated to providing legal services to and advocating for civil rights on behalf of Asian American, Native Hawaiian, and Pacific Islander communities. We advocate for policy changes at all levels of government.

At the October 17th meeting, I testified regarding our concerns that proposed changes to the MLO would impose burdens that have a real risk of chilling legitimate advocacy by nonprofits and reducing participation of disadvantaged City residents in critical City decision-making. For example, an organization that assists immigrants may decide not to advocate for or coordinate with the mayor's office on census outreach if it is unsure whether the meetings with the mayor's office is "lobbying," and could consequently force the organization to file regular lobbying reports subject to potential civil and criminal penalties for mistakes or late filing. This robs the City of vital input and expertise which otherwise would help the City make decisions that are fair and equitable to the underserved at a time when so many traditionally disadvantaged groups are being targeted.

As a reminder, 501(c)(3)s are prohibited by federal law from doing more than an insubstantial amount of lobbying, and any lobbying they do must be tracked and publicly reported. Importantly, 501(c)(3)s are prohibited from supporting or opposing candidates for office, so the risk of quid pro quo or pay to play corruption stemming from 501(c)(3) lobbying is much less than with non-charitable lobbying entities.

We encourage the Commission to address the following concerns that we and other nonprofits have by broadening the 501(c)(3) exemption to read as follows:

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- 1. Provides assistance, such as food, clothing, shelter, child care, health, legal, vocational, relief, educational, and other similar**

assistance to disadvantaged people for free or at a significantly below-market rate; OR

2. Has gross receipts of less than \$2.5 million.

This exemption also applies to the organization's employees and board members while engaged in official duties. This exemption does not apply when an organization is seeking funding, property, or a permit from the City on its own behalf.

This proposal differs from staff's proposal at the October 17th meeting in a few important ways. First, it would not require 501(c)(3)s to receive government funding—at a time when such funding is being reduced—to qualify for the exemption. Staff has offered no rationale for this requirement, and indeed was planning to remove it earlier in this review process when it inexplicably reversed course.

501(c)(3)s shouldn't have to hire attorneys to determine whether or not they are covered by the exemption. Therefore, our proposal clarifies some ambiguities in the October staff proposal and uses language more likely to be understood by nonprofits. We don't use the term "direct basic life assistance" because that is not a recognized term. Rather, we focus on assistance to disadvantaged people, since this seems to be at the heart of both the current 501(c)(3) exemption and the October staff proposal. We provide examples of types of assistance to disadvantaged people without being exhaustive, in recognition of the varied needs of disadvantaged people in Los Angeles. Our proposal includes that relief or educational assistance to disadvantaged people would be exempt, as these are important categories under Internal Revenue Code section 501(c)(3) of charitable activity. Our proposal avoids the term "client" which is not a term often used by 501(c)(3) organizations such as churches, food pantries, and child care centers to describe the people they assist, and therefore could lead to confusion. Our proposal specifies that it applies to board members while engaged in official 501(c)(3) business. The October staff proposal does not call out board members, who are important emissaries of 501(c)(3) nonprofits. Furthermore, the October staff proposal states that the exemption applies to "the organization's employees engaged in the same activity" but it is not clear what it means by "same activity." Same as what? We propose the term "official duties" instead.

501(c)(3)s should not have to hire an attorney each time they use the exemption to determine if it will apply in each instance. Unfortunately, the October staff proposal makes this outcome likely because it contains a final sentence that ambiguously limits the scope of the exemption by saying that it does not apply to "other action" by the organization. Other than what? We propose a much clearer limitation, which although it is more restrictive than current law, would clearly delineate between covered and non-

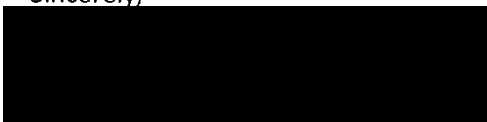
covered activity, by stating that the exemption does not apply when an organization seeks funding, property, or a permit from the City on its own behalf. Despite the fact that these activities, when undertaken by covered nonprofits such as a homeless shelter or affordable housing provider, do benefit disadvantaged people, we think it is reasonable to carve this activity out in exchange for a broader exemption as outlined here.

Finally, our proposal would exempt smaller nonprofit organizations, as measured by gross receipts, to alleviate the unique burdens smaller organizations face in tracking and reporting lobbying activities. Smaller 501(c)(3)s aren't able to spend much on lobbying, and even in the rare situations where they could otherwise qualify as City lobbyists, they especially may not have the capacity to hire an attorney to assist them with filing reports and determining when the organization's activities constitute lobbying under the MLO. This means that they are the most likely to decide not to participate based on being unsure as to whether they are covered by the exemption. An organization with a budget over \$2.5 million is much more likely to have the administrative capacity to track and report City lobbying. This size cap is a bright-line rule that adds clarity for a group of nonprofits that are unlikely to qualify as City lobbyists anyway, and therefore can give them peace of mind to participate in small ways without worrying about the liability that the MLO might otherwise impose.

We believe this proposal strikes the right balance - reducing the uncertainties that would deter participation of community-based organizations who advocate on behalf of underrepresented people while still ensuring meaningful disclosure to the public.

Thank you again for offering this opportunity to address the Commission on its review of the MLO.

Sincerely,



Deanna Kitamura
Voting Rights Project Director
Asian Americans Advancing Justice – Los Angeles

*The physician and health advocate voice for a world free from nuclear threats
and a safe, healthy environment for all communities.*



December 12, 2017

Los Angeles City Ethics Commission
200 N Spring St. #2410
Los Angeles, CA, 90012

VIA ELECTRONIC DELIVERY

Dear City Ethics Commissioners,

Thank you for this opportunity to comment on the City Ethics Commission's review of the Los Angeles Municipal Lobbying Ordinance (MLO).

Physicians for Social Responsibility – Los Angeles (PSR-LA) is a health professional membership organization that works to improve public health by addressing environmental threats and health disparities. Our work and the work of countless other nonprofit organizations depend on the ability to effectively advocate with clear lobbying rules that understand and accommodate for the unique role that we play.

At the October 17th meeting, 501(c)(3) nonprofits in the City expressed concerns that proposed changes to the MLO would impose burdens that have a real risk of chilling legitimate advocacy by nonprofits and reducing participation of disadvantaged City residents in critical City decision-making. For example, an organization that is working to reduce toxic pollution in communities may decide not to produce a report with policy recommendations on preventing harmful exposures to industrial activities if it is unsure whether the cost of the report is a lobbying expense, and could force the organization to file regular lobbying reports subject to potential civil and criminal penalties for mistakes or late filing. This robs the City of vital input and expertise which otherwise would help the City make decisions that are fair and equitable to the underserved at a time when so many traditionally disadvantaged groups are being targeted.

As a reminder, 501(c)(3)s are prohibited by federal law from doing more than an insubstantial amount of lobbying, and any lobbying they do must be tracked and publicly reported. Importantly, 501(c)(3)s are prohibited from supporting or opposing candidates for office, so the risk of quid pro quo or pay to play corruption stemming from 501(c)(3) lobbying is much less than with non-charitable lobbying entities.

We encourage the Commission to address the following concerns that we and other nonprofits have by broadening the 501(c)(3) exemption to read as follows:

Sec. 48.03

E. Any organization exempt from federal taxation pursuant to Section 501(c)(3) of the Internal Revenue Code that:

- 1. Provides assistance, such as food, clothing, shelter, child care, health, legal, vocational, relief, educational, and other similar assistance to disadvantaged people for free or at a significantly below-market rate; OR**
- 2. Has gross receipts of less than \$2.5 million.**

This exemption also applies to the organization's employees and board members while engaged in official duties. This exemption does not apply when an organization is seeking funding, property, or a permit from the City on its own behalf.

This proposal differs from staff's proposal at the October 17th meeting in a few important ways. First, it would not require 501(c)(3)s to receive government funding—at a time when such funding is being reduced—to qualify for the exemption. Staff has offered no rationale for this requirement, and indeed was planning to remove it earlier in this review process when it inexplicably reversed course.

[REDACTED]

501(c)(3)s shouldn't have to hire attorneys to determine whether or not they are covered by the exemption. Therefore, our proposal clarifies some ambiguities in the October staff proposal and uses language more likely to be understood by nonprofits. We don't use the term "direct basic life assistance" because that is not a recognized term. Rather, we focus on assistance to disadvantaged people, since this seems to be at the heart of both the current 501(c)(3) exemption and the October staff proposal. We provide examples of types of assistance to disadvantaged people without being exhaustive, in recognition of the varied needs of disadvantaged people in Los Angeles. Our proposal includes that relief or educational assistance to disadvantaged people would be exempt, as these are important categories under Internal Revenue Code section 501(c)(3) of charitable activity. Our proposal avoids the term "client" which is not a term often used by 501(c)(3) organizations such as churches, food pantries, and child care centers to describe the people they assist, and therefore could lead to confusion. Our proposal specifies that it applies to board members while engaged in official 501(c)(3) business. The October staff proposal does not call out board members, who are important emissaries of 501(c)(3) nonprofits. Furthermore, the October staff proposal states that the exemption applies to "the organization's employees engaged in the same activity" but it is not clear what it means by "same activity." Same as what? We propose the term "official duties" instead.

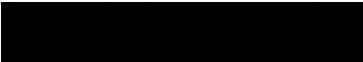
501(c)(3)s should not have to hire an attorney each time they use the exemption to determine if it will apply in each instance. Unfortunately, the October staff proposal makes this outcome likely because it contains a final sentence that ambiguously limits the scope of the exemption by saying that it does not apply to "other action" by the organization. Other than what? We propose a much clearer limitation, which although it is more restrictive than current law, would clearly delineate between covered and non-covered activity, by stating that the exemption does not apply when an organization seeks funding, property, or a permit from the City on its own behalf. Despite the fact that these activities, when undertaken by covered nonprofits such as a homeless shelter or affordable housing provider, do benefit disadvantaged people, we think it is reasonable to carve this activity out in exchange for a broader exemption as outlined here.

Finally, our proposal would exempt smaller nonprofit organizations, as measured by gross receipts, to alleviate the unique burdens smaller organizations face in tracking and reporting lobbying activities. Smaller 501(c)(3)s aren't able to spend much on lobbying, and even in the rare situations where they could otherwise qualify as City lobbyists, they especially may not have the capacity to hire an attorney to assist them with filing reports and determining when the organization's activities constitute lobbying under the MLO. This means that they are the most likely to decide not to participate based on being unsure as to whether they are covered by the exemption. An organization with a budget over \$2.5 million is much more likely to have the administrative capacity to track and report City lobbying. This size cap is a bright-line rule that adds clarity for a group of nonprofits that are unlikely to qualify as City lobbyists anyway, and therefore can give them peace of mind to participate in small ways without worrying about the liability that the MLO might otherwise impose.

We believe this proposal strikes the right balance - reducing the uncertainties that would deter participation of community-based organizations who advocate on behalf of underrepresented people while still ensuring meaningful disclosure to the public.

Thank you again for offering this opportunity to address the Commission on its review of the MLO.

For health & justice,


Martha Dina Arguello
Executive Director

December 13, 2017



Jessica A. Levinson, Chair and Commissioners
Los Angeles City Ethics Commission
200 North Spring Street
City Hall, 24th Floor
Los Angeles, CA 90012

PRESIDENT
NAN ARON
CHAIR
KEN GROSSINGER

Via email to ethics.policy@lacity.org

Dear City Ethics Commissioners,

Alliance for Justice (AFJ) thanks the City Ethics Commission for this opportunity to comment on the proposed revisions to the Los Angeles Municipal Lobbying Ordinance (MLO).

AFJ is a national association of over 120 organizations, representing a broad array of groups committed to progressive values and the creation of an equitable, just, and free society. AFJ is the leading expert on the legal framework for nonprofit advocacy efforts, providing definitive information, resources, and technical assistance that encourages nonprofit organizations to fully exercise their right to be active participants in the democratic process. A nonprofit ourselves, we are not a law firm, but rather we provide legal and capacity-building support to nonprofit organizations to empower them to advocate in line with their missions and in compliance with the law. Since 2004, we have worked with over 1,800 small, medium, and large nonprofit organizations in California.

At the October 17th meeting, 501(c)(3) nonprofits in the City expressed concerns that proposed changes to the MLO would impose burdens that have a real risk of chilling legitimate advocacy by nonprofits and reducing participation of disadvantaged City residents in critical City decision-making. For example, a community-based organization that assists homeless residents may decide not to produce a report outlining the need for more public toilets on Skid Row if it is unsure whether the cost of the report is a lobbying expense, since preparing the report could force the organization to file regular lobbying reports subject to potential civil and criminal penalties for mistakes or late filing. This robs the City of vital input and expertise which otherwise would help the City make decisions that are fair and equitable at a time when so many traditionally disadvantaged groups are being targeted.

As a reminder, 501(c)(3) public charities are prohibited by federal law from doing more than an insubstantial amount of lobbying, and any lobbying they do must be tracked and publicly reported to the IRS. Importantly, 501(c)(3)s are prohibited from supporting or opposing candidates for office, so the risk of quid pro quo or pay to play corruption stemming from 501(c)(3) lobbying is much less than with non-charitable lobbying entities.

We encourage the Commission to address the concerns that we and other nonprofits have expressed by broadening the 501(c)(3) exemption to read as follows:

Sec. 48.03

E. Any organization exempt from federal taxation pursuant to Section 501(c)(3) of the Internal Revenue Code that:

[REDACTED]

Field Offices
Oakland, CA | Los Angeles, CA | Dallas, TX

1. **Provides assistance, such as food, clothing, shelter, child care, health, legal, vocational, relief, educational, and other similar assistance to disadvantaged people for free or at a significantly below-market rate; OR**
2. **Has gross receipts of less than \$2.5 million.**

This exemption also applies to the organization's employees and board members while engaged in official duties. This exemption does not apply when an organization is seeking funding, property, or a permit from the City on its own behalf.

This proposal differs from staff's proposal at the October 17th meeting in a few important ways. First, it would not require 501(c)(3)s to receive government funding—at a time when such funding is being reduced—to qualify for the exemption. Staff has offered no rationale for this requirement, and indeed was planning to remove it earlier in this review process before inexplicably reversing course.

501(c)(3)s should not have to hire attorneys to determine whether or not they are covered by the exemption. Therefore, our proposal clarifies some ambiguities in the October staff proposal and uses language more likely to be understood by nonprofits. We don't use the term "direct basic life assistance" because that is not a recognized term. Rather, we focus on assistance to disadvantaged people, since this seems to be at the heart of both the current 501(c)(3) exemption and the October staff proposal. We provide examples of types of assistance to disadvantaged people without being exhaustive, in recognition of the varied needs of disadvantaged people in Los Angeles. Our proposal includes that relief or educational assistance to disadvantaged people would be exempt, as these are important categories under Internal Revenue Code section 501(c)(3) of charitable activity. Our proposal avoids the term "client," since that is a term not often used by 501(c)(3) organizations such as churches, food pantries, and child care centers to describe the people they assist, and therefore could lead to confusion. Our proposal specifies that it applies to board members while engaged in official 501(c)(3) duties. The October staff proposal does not call out board members, who are important emissaries of 501(c)(3) nonprofits. Furthermore, the October staff proposal states that the exemption applies to "the organization's employees engaged in the same activity" but it is not clear what "same activity" means. We propose the term "official duties" instead.

501(c)(3)s also should not have to hire an attorney each time they use the exemption to determine if it will apply in each instance. Unfortunately, the October staff proposal makes this outcome likely because it contains a final sentence that ambiguously limits the scope of the exemption by saying that it does not apply to "other action" by the organization. Other than what? We propose to clearly delineate between covered and non-covered activity by stating that the exemption does not apply when an organization seeks funding, property, or a permit from the City on its own behalf. This suggested language is more restrictive than current law. However, despite the fact that these activities, when undertaken by covered nonprofits such as a homeless shelter or affordable housing provider, do benefit disadvantaged people, we think it is reasonable to carve this activity out in exchange for a broader exemption as outlined here.

Finally, our proposal would exempt smaller nonprofit organizations, as measured by gross receipts, to alleviate the unique burdens smaller organizations face in tracking and reporting lobbying activities. This size cap is also a bright-line rule that adds clarity for a group of nonprofits that are unlikely to qualify as City lobbyists anyway, and therefore can give them peace of mind to participate in small ways without worrying about the liability that the MLO might otherwise impose. Smaller 501(c)(3)s aren't able to spend much on lobbying, and even in the rare situations where they could otherwise qualify as City

lobbyists, they especially may not have the capacity to hire an attorney to assist them with filing reports and determining when the organization's activities constitute lobbying under the MLO. This means that they are the most likely to decide not to participate based on being unsure as to whether they are covered by the exemption.

An organization with a budget under \$2.5 million is unlikely to have a staff person primarily focused on financial management, such as a Chief Financial Officer. For organizations of this size, financial reporting usually falls to the Executive Director, or possibly Chief Operating Officer, both of whom handle a wide array of other responsibilities such as HR. Rather than have staff with myriad other responsibilities take on another reporting responsibility, many groups at this size decide to limit their advocacy work instead of hiring staff or outside counsel for the purpose of complying with lobbying reporting requirements.

Finally, we want to address a question posed by Commissioner Levinson at the October meeting. She asked whether a for-profit business could form a nonprofit for the purpose of taking advantage of the proposed exemption. This outcome is extremely unlikely, for a few reasons.

First, nonprofit organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code must be organized and operated for an exempt purpose: religious, charitable, scientific, testing for public safety, literary, or educational. 26 USC § 501(c)(3). An organization organized and operated for the benefit of a "private interest" would not qualify for tax-exempt status as a 501(c)(3). 26 CFR § 1.501(c)(3)-1(d)(1)(ii). An organization organized for the purpose of advocating on behalf of a for-profit business would almost definitely be denied tax-exempt status as a 501(c)(3) by the IRS because it serves a private, rather than public interest. Even if the nonprofit conducted charitable activities, in addition to lobbying on behalf of the for-profit, it would still violate the private benefit rule which disallows all activities serving private interests that are not incidental to furthering an exempt purpose. See 2001 EO CPE Text, Private Benefit Under IRC 501(c)(3), 136-137. A group of businesses or individuals may form an organization for the purpose of improving business conditions for a line of business, including through lobbying, but the organization would be a 501(c)(6) organization and would not qualify for the proposed exemption.

Second, even if the organization were to obtain tax-exempt status as a 501(c)(3), it would most certainly be classified as a "private foundation," rather than a "public charity" because most, if not all, of its revenue would come from one source – the for-profit business. The IRS effectively prohibits private foundations from lobbying by imposing a tax of up to 100% of lobbying expenditures. 26 USC § 4945(d). Further, private foundation managers that knowingly authorize lobbying expenditures are personally liable for tax penalties. 26 USC § 4945(a)(2). Even if a for-profit company managed to raise additional funds for the organization to avoid private foundation status, it would still be limited to doing an insubstantial amount of lobbying, which could never exceed 20% of its total expenditures, and in most cases is a much lower percentage (closer to 5%). 26 USC §§ 501(c)(3) and (h); 4911. And this is assuming the organization receives funds from other sources that are not restricted from being used for lobbying.

Furthermore, the California Attorney General regulates charities to protect charitable assets for their intended use and ensure that the charitable donations contributed by Californians are not misapplied and squandered through fraud or other means. Cal Gov. Code § 12598(a).

We believe broadening the 501(c)(3) exemption as outlined above strikes the right balance - reducing the uncertainties that would deter participation of community-based organizations who advocate on behalf of underrepresented people while still ensuring meaningful disclosure to the public.

Thank you again for offering this opportunity to address the Commission on its review of the MLO.

Sincerely,



Nona Randois
California Director



Shyaam Subramanian
Southern California Counsel



THE PUBLIC INTEREST LAW OFFICE OF THE LOS ANGELES COUNTY AND BEVERLY HILLS BAR ASSOCIATIONS
The Southern California Affiliate of The Lawyers' Committee for Civil Rights Under Law

December 13, 2017

Los Angeles Ethics Commission
200 N Spring St # 2410
Los Angeles, CA 90012
Fax: (213) 978-1988

RE: Los Angeles Municipal Lobbying Ordinance

Dear City Ethics Commissioners,

Thank you for this opportunity to comment on the City Ethics Commission's review of the Los Angeles Municipal Lobbying Ordinance (MLO).

Public Counsel is a nonprofit law firm that provides free legal services to both individuals struggling with poverty and nonprofit organizations that serve low-income people in Los Angeles County. Each year, Public Counsel's Community Development Project provides free legal assistance and capacity building services to approximately 350 tax-exempt organizations working to fight poverty through affordable housing, health care, education, job training, advocacy, and other means. Public Counsel staff and volunteer attorneys assist nonprofits with a variety of legal issues, including advice on federal lobbying limits and state and local lobbying disclosure rules. Public Counsel and its clients engage in lobbying and other advocacy with the City of Los Angeles on behalf of low-income people in the City, almost all of whom are grossly underrepresented in the City's decision-making process.

At previous meetings of the Ethics Commission and in communications with commission staff, 501(c)(3) nonprofits in the City expressed concerns that proposed changes to the MLO would impose burdens that may stifle crucial advocacy by nonprofits and, alarmingly, reduce participation of low-income City residents in critical decision-making processes. For example, a community-based health care organization may decide not to produce a report on the health care needs of homeless residents if it is unsure whether the cost of the report is a lobbying expense. Such an expense would add burdensome administrative costs by forcing the organization to file regular lobbying reports and would subject it to civil and criminal penalties for mistakes or late filing.

At a time when many traditionally low-income groups are being targeted, the proposed ordinance stands to rob the City of vital input and expertise which might otherwise help the City make decisions that are fair and equitable to underrepresented communities. We recommend that the MLO exempts all nonprofit, 501(c)(3) organizations whose primary purpose is to provide assistance to low-income people.

As the Commissioners likely know, 501(c)(3) organizations must be organized and operated for an exempt purpose, and not for the benefit of any private individual. As such, advocacy and lobbying activities of nonprofit organizations that provide assistance to low-income people must be in service of

"There is no greater justice than equal justice"



THE PUBLIC INTEREST LAW OFFICE OF THE LOS ANGELES COUNTY AND BEVERLY HILLS BAR ASSOCIATIONS
The Southern California Affiliate of The Lawyers' Committee for Civil Rights Under Law

that charitable or educational mission. An exemption for nonprofits that provide services to low-income individuals is therefore necessary in order to ensure that nonprofits can freely participate in City decision-making on behalf of the people they serve, without worrying whether their participation will subject them to burdensome lobbying registration and reporting rules. A nonprofit may decline to weigh in on important issues affecting low-income Angelenos if it fears that the organization may then be subject to expensive fees that take limited resources away from their programs.

Given that there are already numerous government authorities that currently oversee and regulate nonprofits, we encourage the Commission to minimize additional barriers to entry into civic discourse, and address our concerns by implementing the following:

First, we ask that the Commission broaden the proposal's 501(c)(3) exemption to include **all nonprofit organizations exempt under section 501(c)(3) of the Internal Revenue Code whose primary purpose is to provide assistance to low-income people for free or at below-market rates.** Broadening the exemption will clarify ambiguities in the current staff proposal; rather than using the term "direct basic life assistance," which is not a term recognized or widely used by nonprofit organizations, applying the exemption to all nonprofits that provide free or below-market assistance to low-income people ensures that the exemption is inclusive of the numerous nonprofits that provide critical support services to the City's underserved.

Second, we ask that the Commission remove the exemption requirement for government funding from the proposal. As written, this exemption requirement will force many small nonprofits that do not receive government funding to shift more resources to administration. Moreover, at a time when government funds are being reduced, this requirement raises serious concerns of future lobbying efforts by the many nonprofits in danger of losing access to government funding. To date, the Commission staff has not offered a clear rationale for this requirement. Indeed, staff was planning to remove it at an earlier stage of the review process when it inexplicably reversed course. Removing the requirement for government funding from the proposal will ensure that many small nonprofits that might otherwise be precluded by burdensome requirements will continue to be heard.

Third, we ask the Commission to explicitly include board members of nonprofits within the exemption. Doing so will ensure the ordinance more accurately reflects the nature of lobbying efforts in which small nonprofits engage. Implementing these changes will provide peace of mind to small nonprofits, and will allow them to continue to support their clients through civic dialogue without putting their organizational status at risk.

In addition, organizations exempt from taxation under 501(c)(3) of the Internal Revenue Code are prohibited by federal law from doing more than an insubstantial amount of lobbying, and any lobbying they do must be tracked and publicly reported on annual information returns with the IRS. As such, a nonprofit organization is already required by law to be transparent with all of its lobbying activities, unlike for-profit businesses. Moreover, 501(c)(3) organizations are prohibited from supporting or opposing candidates for office and risk revocation of tax-exempt status if they engage in impermissible campaign activity. This oversight ensures that the threat of pay-to-play corruption is considerably less with a 501(c)(3) organization than with a non-charitable lobbying entity.

"There is no greater justice than equal justice"

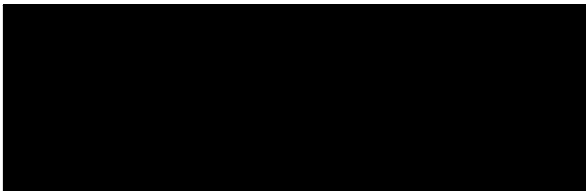


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We believe our recommendations strike the right balance - reducing the uncertainties that would deter participation of community-based organizations who advocate on behalf of underrepresented people while still ensuring meaningful disclosure to the public.

Thank you again for offering this opportunity to address the Commission on its review of the MLO.

Very truly yours,



Chris Homandberg
Community Development Project Law Fellow
PUBLIC COUNSEL

"There is no greater justice than equal justice"